

REMARKS

This communication responds to the *Office Action* dated July 8, 2010. Applicants have amended claims 1, 19, 37, and 55. Support for the claim amendments may be found at, for example, paragraph [0017] of Applicants' as-filed specification.¹ Claims 73-112 were previously canceled. No claims are presently canceled and no claims are added. Consequently, claims 1-72 remain pending in this application.

Examiner's Interview

Applicants thank the Examiner for the courtesy of the Interview on August 27, 2010. During the Interview, the undersigned representative discussed with the Examiner the cited reference to *Horbal* in light of Applicants' pending claims. In the Interview Summary, dated September 2, 2010, the Examiner stated

The Applicant may amend line 7 of claim 1 to make it clear that the transmission of data is performed without requiring a proxy device and a server. The Examiner agreed the claims would be distinguishable over the cited prior art because Horbal discloses the use of servers to transmit data between dissimilar devices (see figure 2 of Horbal).²

As a result of the Interview, Applicants have amended each independent claim to positively recite, *inter alia*, "without requiring either a proxy device or a server to enable communications."

Rejection of Claims Under 35 U.S.C. §103(a)

On page 2, paragraph 3 of the *Office Action*, the Examiner rejected claims 1-8, 11-26, 29-44, 47-62, and 65-72 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,112,246 to Horbal et al. (*Horbal*), in view of U.S. Published Patent Application No. 2002/0143855 to Traversat et al. (*Traversat*). Applicants respectfully traverse the rejection.

¹ Paragraph numbers are given herein with reference to Applicants' U.S. Published Patent Application No. 2004/0213271.

² *Interview Summary* at 2; emphasis in original.

The basis for an obviousness rejection is grounded in a consideration of all claim elements. “All words in a claim must be considered in judging the patentability of that claim against the prior art.”³ Additionally, to render the claimed subject matter obvious, the prior art references must teach or suggest every feature of the claims.⁴

Applicants’ amended independent claim 1 recites, *inter alia*,

[T]ransmitting data between the communication device and the dissimilar communication devices without requiring either a proxy device or a server to enable communications, the communication device and the dissimilar communication devices communicating through a common interface that operates in accordance with aspects of the communication device and an abstracted version of the dissimilar communication devices.⁵

Each of Applicants’ other independent claims, namely claims 19, 37, and 55, share with claim 1 limitations similar to at least those recited immediately above.

The Examiner relied exclusively on *Horbai* to teach or suggest these claimed elements. However, in contrast to Applicants’ claimed elements and as discussed in the Interview, *Horbai* discusses installing a server into each device to enable communications.

A micro-server adapted to be embedded into a piece of industrial machinery, an automobile, a consumer product, and the like . . . The micro-server is capable of interfacing with a device to access information from the device, such as control or maintenance information. The micro-server can then organize and format that information compatible with a communication protocol.⁶

Thus, in contrast to Applicants’ claims, *Horbai* requires embedding a server into each of the dissimilar communication devices. Although the Examiner did not rely on *Traversat* to teach or suggest the claimed elements discussed above, *Traversat* still fails to make up for any of the deficiencies neither taught nor suggested by *Horbai*.

³ *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See also MPEP § 2143.03.

⁴ See Manual of Patent Examining Procedure §§ 706.02(j), 2143(A) (2008); MPEP § 2142 (2006) (citing *In re Vaeck*, 947 F.2d, 488 (Fed. Cir. 1991). Cited approvingly in *Ex parte WEN WEN* and *PATRICIA NG* at 7; Appeal No. 2009-000776; decided September 25, 2009.

⁵ Emphasis added.

⁶ *Horbai* at Abstract; emphasis added.

Since Applicants have shown that not all the claimed elements were known as required, either by *Horbal* singly or in combination with *Traversat*, Applicants respectfully request the Examiner to reconsider and withdraw the rejection under 35 U.S.C. §103 with regard to independent claims 1, 19, 37, and 55. Further, since the other claims rejected under this section depend, either directly or indirectly from claims 1, 19, 37, or 55, they too are allowable for at least the same reasons as the claims from which they depend. Further, these dependent claims each may contain additional patentable subject matter.

On page 8, paragraph 25 of the *Office Action*, the Examiner rejected claims 9, 10, 27, 28, 45, 46, 63, and 64 under 35 U.S.C. §103(a) as being unpatentable over *Horbal* in view of *Traversat*, as applied to claims 4, 22, 40, and 58 respectively above, and further in view of U.S. Published Patent Application No. 2002/0099867 to Wilkinson et al. (*Wilkinson*). However, each of these claims depend either directly or indirectly from one of the independent claims, 1, 19, 37, or 55, that Applicants have shown to be allowable. *Wilkinson* does nothing to cure the deficiencies not found in either *Horbal* or *Traversat*. Thus, each of these dependent claims are allowable for at least the same reasons as given above with regard to the independent claims from which they depend. Further, each of these dependent claims may be allowable for its own limitations.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned attorney at (408) 660-2015 to facilitate prosecution of this application.


If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 8th day of September, 2010.


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